

MASS TRANSIT DEPARTMENT BOARD

BOARD ACTION

DATE 03/22/05	REFERENCE NO. 05-19	SUBJECT: Resolution – Delegation of Authority to the City Manager	ITEM NO: 3
BACKGROUND: On the agenda today is a resolution that the City of El Paso Mass Transit Department Board grants authority to the City Manager to enter into and to sign on behalf of the Mass Transit Department certain contracts and documents other than the resolutions of the Board, to authorize the City Manager to approve certain events and activities by the Department; and to take other specified administrative action on behalf of the Department.			
RECOMMENDATION: It is therefore recommended that the Chairman of the Mass Transit Board the resolution.			
DISPOSITION BY TRANSIT BOARD: APPROVED			SECRETARY
OTHER (DESCRIBE)			
SUBMITTED BY:			DATE:

**RESOLUTION OF THE CITY OF EL PASO MASS TRANSIT DEPARTMENT BOARD
DELEGATION OF AUTHORITY TO THE CITY MANAGER**

WHEREAS, the City Manager or his or her designee should be authorized to sign most of the Mass Transit Board's official documents, as approved by the Board in the interest of efficiency of administrative governmental operations in the Mass Transit Department; and

WHEREAS, the Chairman of the Board shall continue to sign the resolutions of the Board and shall be the preferred official to sign high-level contracts and documents involving other governmental entities; and

WHEREAS, the Mass Transit Department Board enters into many contracts and similar documents that are routine in nature or are for certain categories or types of items that have already been approved through the budgeting process, and City Manager or his or her designee should be authorized to negotiate and enter into contracts and documents relating to these items, in accordance with the guidelines established herein, in the interest of efficiency of administrative governmental operations of the Mass Transit Board; and

WHEREAS, with the change in government to the Council-Manager form of government in the City, it is now more appropriate for the City Manager to authorize and grant permission to the Mass Transit Department to hold events and conduct certain activities that previously had come before the Board, in accordance with any guidelines established herein.

NOW THEREFORE, BE IT RESOLVED BY THE MASS TRANSIT DEPARTMENT BOARD OF THE CITY OF EL PASO, TEXAS:

1. The City of El Paso Mass Transit Department Board hereby grants authority to the City Manager to sign on behalf of the Mass Transit Department all lawful acts of the Board, as approved, other than the resolutions of the Board, as permitted by law.
2. The Mass Transit Department Board hereby grants authority to the City Manager to negotiate and enter into contracts on behalf of the Board and sign and bind the Board for those contracts specified below, provided that the funding for the contract is contained in an approved budget and as permitted by law. All such contracts shall be approved as to form by the City Attorney prior to execution, provided however, that if a standard rental agreement or form document is used by the City for any of these purposes, the City Attorney need only review and approve the standard agreement or form document as to form:
 - a. Agreements that will allow the Mass Transit Department to obtain the loan of art, historical, cultural and similar objects for temporary display purposes.
 - b. Agreements for the rental of or which grant the use of City/Mass Transit Department facilities for special events, when doing so is an appropriate use of the particular facility and done in accordance with any guidelines or policies that may have been established by the City Council or the Mass Transit Board. This grant of authority to authorize the action of the City Manager shall supersede and be controlling over any conflicting provision or procedure contained in any resolution previously adopted by the City Council or the Mass Transit Board and shall not constitute or authorize the creation of a new public forum at any City/Mass Transit Department facility.
 - c. Leases, agreements, purchase orders and other similar documents for the City/Mass Transit Department to acquire the use of facilities necessary for the operation and conduct of Department business. In the event that any lease or other term of use extends beyond the current fiscal year, the actions of the City Manager to obligate and/or encumber

City/Department funding to pay the Department's expenses shall constitute the approval of the Mass Transit Department Board for the expenditure of monies extending beyond the current Fiscal Year, as may be required by Texas law and Mass Transit Board Budget Resolutions.

- d. Documents required by a donor relating to the making of a donation to the Mass Transit Department.
 - e. Agreements, purchase orders and other similar documents as determined to be necessary in connection with the making or awarding of contracts for the acquisition of goods and services in an amount not to exceed \$25,000 per annum or an aggregate of \$50,000 on a multi-year contract and in accordance with City Council or Mass Transit Department Board approved purchasing policies as applicable, and all agreements and similar documents in connection with any revenue-generating contracts or contracts relating to the provision of goods and services by persons or organizations to the Department at no cost to the Department. Such authority shall supersede and be controlling over any conflicting provision or procedure contained in any resolution previously adopted by the Mass Transit Department Board that required the contract to be presented to the Chairman of the Board for approval, except as set forth in any purchasing policy that has been approved by the City Council or Mass Transit Department Board.
 - f. Agreements and other documents required by the vendor for the purchase of computer software and the maintenance of computer software and hardware to include licensing and maintenance agreements.
 - g. Any agreement or other required documents relating to the authority and powers granted as specified in Section 4 of this resolution.
1. The authority granted to the City Manager herein with respect to signing or entering into any contracts shall also include the authority to terminate such contracts as permitted under the contract and to sign amendments to such contracts when the amount of the amendment when added to the original amount of the contract does not exceed the applicable maximum amount or when the amount of the amendment does not exceed twenty-five percent of the original amount of the contract, whichever limitation is lower.
 2. The Mass Transit Department Board hereby gives the authority to the City Manager to authorize the Mass Transit Department to conduct events and activities and to take action as specified below by administrative action without further Board action. Such action shall supersede and be controlling over any conflicting provision or procedure contained in any resolution previously adopted by the City Council or Mass Transit Department Board.
 - a. To authorize the service of beer and wine at special events and activities conducted at City/Mass Transit Department facilities, in conformity with any policies established by City Council or the Mass Transit Department Board, and in connection with events deemed by the City Manager to be appropriately held at such facilities.
 - b. To authorize the Mass Transit Department to participate in a parade or other similar special event, not to exceed five events during each fiscal year.
 - c. To authorize the Mass Transit Department to host or participate in an event, program or activity or to informally partner with an organization with respect to such event when the participation or partnership provides a direct benefit to the City/Department or its officials or employees or serves such other municipal purpose. Examples of such events include educational and training programs, pride day and seminar presentations.
 - d. To permit the use of City/Mass Transit Department facilities, equipment and staff time for events and activities that relate to a municipal purpose, the facilitation of governmental operations, instill pride or patriotism, provide a benefit to the community or assist with the betterment of the community, or further the comfort and convenience of the Department's employees, such as a Christmas gift tag tree, blood drives, early voting, Martin Luther King, Jr. food drives, and uses by other governmental entities, in accordance with a written policy and procedure to be established by the City Manager and approved by the City Attorney. Provided,

however that such uses shall not interfere with the orderly function of government service in a City/Department facility and shall be permitted by Federal laws, rules and regulations applicable to the Mass Transit Department, and provided further that this grant of authority shall not constitute or authorize the creation of a specific public forum at any City/Department facility.

1. The Mass Transit Department Board hereby gives the authority to the City Manager to sign and submit any certification of compliance with any laws, regulations, plans, procedures or similar policy documents, as requested or required by any agency and to sign any documents and plans relating to Mass Transit Department/Board contracts or projects that need an official Mass Transit Department/Board approval or authorization, to include construction plan documents. A certification of compliance with the law shall first be signed as approved as to form by the City Attorney.
2. The Mass Transit Department Board hereby gives the authority to the City Manager to authorize the issuance of a refund of an overpayment or erroneous payment made to the City or its Mass Transit Department, or for the refund of a permit in accordance with standards established by the Board or by the City Council under an ordinance, unless state law requires the action of the Mass Transit Department Board to make a determination or finding with respect to the issuance of the refund. The grant of authority for the City Manager or his or her designed to take the action of authorizing the issuance of a refund made in this ordinance shall supersede and be controlling over a conflicting provision in any ordinance or resolution previously adopted by the City Council or Mass Transit Board.
3. The City Manager is authorized to make the budget transfers, which the Mass Transit Department Board previously by resolution, authorized the Chairman to make in connection with the award of any contract for work on any City Mass Transit Department project.
4. This resolution may not be construed to delegate authority to approve, without city council action, any contract, contract amendment, or other legal instrument that is required by state law to be approved by the Mass Transit Department Board.
5. The City Manager may delegate the authority granted under this resolution to the extent allowed by the City Code, other City ordinances, the City Charter or state law. The City Manager may make rules and procedures, which are not in conflict with the City Code, other City ordinances, the City Charter, or state law, concerning the form and substance of administrative actions and the administration of contracting processes.
6. The City Attorney may delegate the responsibilities set forth under this ordinance to a deputy city attorney or assistant city attorney.

APPROVED this 22nd day of March 2005.

CITY OF EL PASO

Joe Wardy, Chairman
Mass Transit Department Board

ATTEST:

Richarda Duffy Momsen, Secretary
Mass Transit Department Board

APPROVED AS TO CONTENT

APPROVED AS TO CONTENT:

Joyce Wilson
City Manager

Terry Lee Scott, Director
Mass Transit Department

APPROVED AS TO FORM:

Elaine S. Hengen
Assistant City Attorney